

ZONING INTERPRETATION RECORD

Subject of Interpretation:

Definition of Private Outdoor Living Space

Zoning Ordinance Section Number:

Section 5.1004 B. 1. b.

Title of Section:

Property development standards.

Cause for Interpretation:

Individual wants to enclose an outdoor patio space with screen and glass elements.

Interpretation:

The owner of a condominium unit made a request to enclose an outdoor patio with glass and/or screen elements. The property management group and property owner's association supported the enclosure of the outdoor living area subject to compliance with City and Association approvals.

Section 5.1004, B. 1. a., b., and c.: Open space within a multiple family development in an R-5 zone district is to be designed to provide "visual continuity within the community", "variety of spaces in the streetscape", perimeter treatment for the aesthetic relationship of the site to adjoining development, private outdoor living space for passive use by residents and common open space for the benefit of the overall project site. These stated objectives relate back to Section 5.1001 Purpose., in that the outdoor living area is helping to provide a higher quality development (stated in Section 5.1001) as an integral part of the open space for a development.

The Zoning Ordinance (Section 5.1004 B. Open space requirements. b.) requires residential developments in R-5 zone districts to provide a percentage of the common or community outdoor space as "private outdoor living space" associated with each residential unit.

Required private outdoor living space (Section 5.1004. B.1. b.) associated with a residential unit was not to be designed as a part of the interior private living space or gross floor area of a home. The private outdoor living space adjoining each dwelling unit (10 percent of the gross size of the dwelling unit on the first floor and 5% of the gross size of the dwelling unit for residential units above the first floor), were part of the required open space for a site and were excluded from the definition of gross floor area and was defined as space with "an open garden atmosphere". (Article III. Definitions. See Gross Floor Area and Private Open Space)

If a residential unit was designed to have more than one patio or balcony so that the amount of outdoor open space provided exceeds the amount required by the ordinance, there is no prohibition on enclosing the additional outside living space to become a sun room or enclosed space in some manner. The restriction is directed to the required open space provided to meet the requirements of Section 5.1004.B.

Conclusions:

Enclosing required private outdoor living space is not allowed. In an R-5 district, required private outdoor living space is intended to be largely unencumbered exterior open space, open to the natural elements and visually and physically associated with its context to the larger common open space of the surrounding development.

The required private open living space is not to be closed or barred from the full influence of the natural elements of wind, air or light; even if it is an area that is partially sheltered by architectural elements of the primary building to which it the private outdoor living space is attached.

The property owner was advised that enclosing the open patio space with glass and/or screening would not be considered to be in compliance with the Zoning Ordinance. The prior action led to the subsequent interpretation and resulting appeal to the interpretation.

The private outdoor living space required by the Zoning Ordinance may contain some structural elements that provide partial privacy and/or protection from the sun for the property owners. Such methods may include but not be limited to temporary awnings, shade structures, screens, canopies, walls, roof members, coverings that are not a permanent or solid surface, arbors, columns, or posts or other similar structural elements of approved construction, as long as one side and/or the ceiling of the space are at least 50% open to the natural elements.

The private outdoor living space required by the Zoning Ordinance cannot be fully enclosed so that the required private outdoor living space is effectively removed from the influences of the natural elements and the visual and physical context of its relationship to the other open common areas of the development. No building elements such as screens and/or glass sections or sliding doors can be added to, hung from or be placed within or on any guide rails, wheels or tracks, framing or be structurally attached to the architectural elements of the primary building which will effectively enclose of required private outdoor living space (e.g., patios and balconies) in an R-5 district.

Additionally, how open space is to be designed for a multiple family development is determined by the Development Review Board (Section 1.902. D.).



Interpretation By
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11/7/06

Date



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